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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-82891; File No. SR-BOX-2017-36)

March 16, 2018

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Adopt Rule 7600(i) to Allow Split-Price Transactions on the BOX Trading Floor

I. Introduction

On November 30, 2017, BOX Options Exchange LLC (the “Exchange” or “BOX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt proposed Rule 7600(i) to allow split-price transactions on the BOX Trading Floor. The proposed rule change was published for comment in the Federal Register on December 19, 2017.³ On January 31, 2018, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to March 19, 2018.⁴ The Exchange filed Amendment No. 1 to the proposal on March 7, 2018.⁵ The Commission is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 82315 (December 13, 2017), 82 FR 60256 (“Notice”).

⁴ See Securities Exchange Act Release No. 82607 (January 31, 2018), 83 FR 5286 (February 6, 2018).

⁵ In Amendment No. 1 the Exchange: (1) further described how split-price priority transactions would execute if there is Public Customer interest on the BOX Book; (2) provided additional justification for the proposal being consistent with the Act; (3) provided additional examples of how split-price priority transactions will be handled and reported by the Exchange; and (4) proposed additional rule text to describe how the system will determine the allocation of a split-price QOO Order in situations where the allocation between two increments results in a fractional amount of contracts and

publishing this notice to solicit comment on Amendment No. 1 to the proposed rule change from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1⁶

BOX proposes to adopt Rule 7600(i), which would establish priority principles for split-price transactions occurring in open-outcry on the Trading Floor.⁷ Under the proposed rule, if an order or offer (bid) for any number of contracts of a series is represented to the trading crowd, a Floor Participant⁸ that buys (sells) one or more contracts of that order or offer (bid) at one price would have priority over all other orders and quotes, except Public Customer Orders⁹ resting in the BOX Book,¹⁰ to buy (sell) up to the same number of contracts of those remaining from the same order or offer (bid) at the next lower (higher) price.¹¹ For orders or offers (bids) of 100 or more contracts,¹² a Floor Participant that buys (sells) 50 or more of the contracts of that order or offer (bid) at a particular price will have priority over all other orders and quotes to buy (sell) up

provided justification for this change. Amendment No. 1 is available at:
<https://www.sec.gov/comments/sr-box-2017-36/box201736-3206059-161998.pdf>.

⁶ For a more detailed description of the proposed rule change, see Notice, supra note 3; Amendment No. 1, supra note 5.

⁷ See Rule 100(a)(67) (defining Trading Floor).

⁸ The term “Floor Participant” includes Floor Brokers as defined in Rule 7540 and Floor Market Makers as defined in Rule 8510(b). See Rule 100(a)(26).

⁹ The term “Public Customer Order” means an order for the account of a Public Customer, which is defined in the BOX Rules as a person that is not a broker or dealer in securities. See Rules 100(a)(52) and (53).

¹⁰ The term “Central Order Book” or “BOX Book” means the electronic book of orders on each single option series maintained by the BOX Trading Host. See Rule 100(a)(10).

¹¹ See proposed Rule 7600(i)(1).

¹² Under the proposed rule, the Exchange would be permitted to increase the minimum qualifying size of 100 contracts. Any such changes would be announced to Participants via Regulatory Circular. See proposed Rule 7600(i)(2).

to the same number of contracts of those remaining from the same order or offer (bid) at the next lower (higher) price.¹³ If the bids or offers of two or more Floor Participants are both entitled to split-price priority, priority would be afforded (to the extent practicable) on a pro-rata basis.¹⁴

According to the Exchange, in order to execute a split-price transaction, a Floor Broker would submit a Qualified Open Outcry (“QOO”) Order to the system in the same manner as done today on the Trading Floor, except that the QOO Order would be entered at a sub-minimum trading increment.¹⁵ After receiving the QOO Order, the system would split the QOO Order into two transactions. The transactions would be separated by one tick that, when combined, would yield a net price equal to the original price entered by the Floor Broker.¹⁶ If this calculation results in a fractional contract amount, the number of contracts allocated will be rounded to the advantage of the initiating side.¹⁷

¹³ See proposed Rule 7600(i)(2). See also Notice supra, note 3, at 60257 (providing an example of a split-price transaction for 100 contracts).

¹⁴ See proposed Rule 7600(i)(3).

¹⁵ For example, a Floor Broker would be permitted to enter a QOO Order at a price of \$1.03 when the minimum trading increment for the series is \$0.05. See Notice, supra, note 3, at 60256, n.5. Split price QOO Orders can be submitted with up to three decimal places (e.g., \$1.025). See Amendment No. 1, supra note 5, at 6 n.6.

¹⁶ For example, if a Floor Broker submitted a split price QOO Order with a price of \$1.025 for 100 contracts in a series with a minimum trading increment of \$0.05, the system would split the QOO Order into two transactions; a transaction for the purchase of 50 contracts at \$1.00 and a transaction for the purchase of 50 contracts at \$1.05. See Notice supra, note 3, at 60256.

¹⁷ See proposed Rule IM-7600-7; Amendment No. 1, supra note 5, at 6. For example, if a Floor Broker submitted a split price QOO Order with a price of \$1.025 for 301 contracts in a series with a minimum trading increment of \$0.05, 150.5 contracts would need to be executed at \$1.00 and 150.5 contracts would need to be executed at \$1.05 to achieve a net price of \$1.025. If the initiating side of such an order were a sell order, the system would instead split the order into 151 contracts at \$1.05 and 150 at \$1.00, resulting in a net execution price of \$1.0251, which is a better price for the initiating sell order. See Amendment No. 1, supra note 5, at 6.

The Exchange represents that the process by which a Floor Broker brings an order to the Trading Floor would be the same for a split-price QOO Order as it is for all other QOO Orders.¹⁸ Specifically, a Floor Broker would be permitted to bring a single-sided order (i.e., the initiating side of a QOO Order) to the Trading Floor in order to seek liquidity (i.e., the contra-side of a QOO Order). In such case, the Floor Broker would announce the single-sided order to the trading crowd in an attempt to find contra-side liquidity. If Floor Participants respond with sufficient liquidity to satisfy the single-sided order, the Floor Broker would be able to submit a two-sided QOO Order to the system as required by Rule 7600.¹⁹ If, however, a Floor Participant responds by providing liquidity at two separate prices, then the Floor Broker would submit the QOO Order at a sub-minimum trading increment which would result in a split-price transaction.²⁰ For example, according to the Exchange, a Floor Market Maker might be willing to buy half of the contracts at one price provided that the Floor Market Maker could then buy the other half at one tick lower.²¹

¹⁸ The Exchange notes that the Floor Broker would be permitted to utilize the book sweep size, as provided in Rule 7600(h), when entering a split-price QOO Order. See Notice, supra note 3, at 60257 and 60258 (providing an example of a split-price QOO Order and book sweep size). According to the Exchange, this may result in the contra-side of a split price order receiving a net price that is worse than the price at which the QOO Order was originally entered. See Amendment No. 1, supra note 5, at 5 (providing an example of the execution of a split-price transaction that executes in part against a Public Customer Order on the BOX Book). A split-price QOO Order will be rejected if the initiating side of the transaction would trade through a resting Public Customer Order because the initiating side of a QOO Order must be filled in its entirety pursuant to Rule 7600(a)(1). See Amendment No. 1, supra note 5, at 5 n.4.

¹⁹ See Rule 7600(a).

²⁰ The Exchange notes that nothing would prevent a Floor Participant from responding for the full amount of the order at a better price for the Floor Broker's customer. For example, if a Floor Broker announced an order for a customer looking to buy at \$0.30 and \$0.35, a Floor Participant could respond to sell the full quantity at \$0.30 instead of selling part at \$0.30 and part at \$0.35. See Notice, supra note 3, at 60256 n.7.

²¹ See Notice, supra note 3, at 60256.

Alternatively, the Floor Broker may have both sides of the QOO Order (i.e., the initiating side and the contra-side) when the order is brought to the Trading Floor and the Floor Broker may wish to execute the order at two separate prices in an attempt to have a net execution price with a sub-minimum trading increment. In such a situation, under the proposed rule, the Floor Broker would announce the QOO Order to the trading crowd and state that they are attempting to execute the QOO Order as a split-price transaction. Floor Participants then would have an opportunity to respond.²²

The use of the proposed split-price priority rule would be subject to certain conditions. First, split-price priority would be available only for open outcry transactions (i.e., QOO Orders) and would not apply to Complex Orders.²³ Second, a Floor Participant would be required to make its bid (offer) at the next lower (higher) price for the second (or later) transaction at the same time as the first bid (offer) or promptly following the announcement of the first (or earlier) transaction.²⁴ Third, the second (or later) purchase (sale) must represent the opposite side of a transaction with the same order or offer (bid) as the first (or earlier) purchase (sale).²⁵

Finally, the Exchange proposes an exception to the availability of split-price priority. Specifically, if the width of the quote for a series is the minimum increment for that series (e.g., \$1.00 - \$1.05 for a series with a minimum increment of \$0.05, or \$1.00 - \$1.01 for a series with a minimum increment of \$0.01), and both the bid and offer represent Public

²² See id. (providing an example of the execution of a single-sided order as a split-price transaction).

²³ See proposed Rule 7600(4)(i).

²⁴ See proposed Rule 7600(4)(ii).

²⁵ See proposed Rule 7600(4)(iii).

Customer Orders resting in the BOX Book, split-price priority pursuant to proposed Rule 7600(i) would not be available to Floor Participants until the Public Customer Order(s) resting in the BOX Book on either side of the market trades.²⁶ The Exchange represents that this exception is consistent with the Exchange's allocation and priority rules, which provide for Public Customer Orders to have priority at the best price in open outcry over QOO Orders.²⁷

To address potential concerns regarding Section 11(a) of the Act,²⁸ the Exchange is proposing to adopt Rule IM-7600-6.²⁹ Proposed Rule IM-7600-6 would make clear that Floor Brokers may avail themselves of the split-price priority rule, but must ensure compliance with Section 11(a). Specifically, proposed Rule IM-7600-6 would require a Floor Broker who bids (offers) on behalf of a non-Market-Maker BOX Participant broker-dealer ("BOX Participant BD") to ensure that the BOX Participant BD qualifies for an exemption from Section 11(a)(1) of the Exchange Act or the transaction satisfies the requirements of Exchange Act Rule 11a2-2(T).³⁰ According to the Exchange, pursuant to existing Rule IM-7600-5, a Participant may not utilize the Trading Floor to effect any transaction for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion by relying on an exemption under Section 11(a)(1)(G) of the Exchange Act (the "G Exemption").³¹ Therefore, according to the Exchange, a Floor Broker

²⁶ See proposed Rule 7600(5).

²⁷ See Notice, supra note 3, at 60257 (providing examples of the application of the exception). See also Rules 7600(c) and (d).

²⁸ 15 U.S.C. 78k(a)

²⁹ See Notice, supra note 3, at 60258. See also proposed Rule IM-7600-6.

³⁰ See proposed Rule IM-7600-6.

³¹ See Notice, supra note 3, at 60258. See also Securities Exchange Act Release No. 80720 (May 18, 2017), 82 FR 23657 (May 23, 2017) (Notice of Amendment 2 to SR-BOX-2016-48) at 23674 and 23681. See also Securities Exchange Act Release No. 81292

bidding or offering on behalf of a BOX Participant must rely on exemptions from Section 11(a) other than the G Exemption.³² Otherwise a Floor Broker would not be permitted to execute a split-price transaction on the Trading Floor. The Exchange notes that the proposed rule change would not limit in any way the obligation of a BOX Participant, while acting as a Floor Broker or otherwise, to comply with Section 11(a) or the rules thereunder.³³

The Exchange has represented that it will provide at least two weeks' notice to Participants via Circular prior to the launch of proposed Rule 7600(i).³⁴

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.³⁵ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,³⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(August 2, 2017), 82 FR 37144 (August 8, 2017) (Order Approving SR-BOX-2016-48).

³² See Notice, supra note 3, at 60258.

³³ See Notice, supra note 3, at 60258.

³⁴ The Exchange stated that it anticipates launching its split-price priority rule in the first quarter of 2018. See Notice, supra note 3, at 60258.

³⁵ In approving this proposed rule change, as modified by Amendment No. 1, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁶ 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change would encourage Floor Participants to quote more aggressively, which in turn could lead to better-priced executions. In addition, the Exchange states that it believes that the proposal will induce Floor Participants to bid (offer) at better prices for an order or offer that may require execution at multiple prices (such as a large-size order), which would result in a better average price for the originating Floor Participant (or its customer).³⁷

The Commission notes that the proposed change is substantively identical to the rules of another options exchange³⁸ and therefore, the Commission does not believe that the adoption of proposed Rule 7600(i) raises any new regulatory issues. The Commission believes that the proposed rule change may encourage more aggressive quoting by Floor Participants in competition for large-sized orders, which, in turn, could lead to better-priced executions.³⁹ The Commission notes that the proposed rule change includes language that clarifies that Floor Brokers who avail themselves of the split-price priority rule are obligated to ensure compliance with Section 11(a) of the Act.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act⁴⁰ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1

³⁷ See Notice, supra note 3, at 60258.

³⁸ See Cboe Exchange Inc. Rule 6.47. See also Nasdaq Phlx LLC Rule 1014(g)(i)(B), NYSE Arca Inc. Rule 6.75-O(h) and NYSE American LLC Rule 963NY(f).

³⁹ See Securities Exchange Act Release No. 77823 (May 12, 2016), 81 FR 31279 (May 18, 2016) (SR-CBOE-2016-034) (approving modifications to Cboe Option's split-price priority rule and adopting an exception when the width of a series quote is at the minimum increment width which is identical to BOX's proposed exception).

⁴⁰ 15 U.S.C. 78f(b)(5).

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BOX-2017-36 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2017-36. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying

information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2017-36 and should be submitted on or before [date 21 days from publication in the Federal Register].

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of the notice of Amendment No. 1 in the Federal Register. As discussed above, Amendment No. 1 clarifies how the proposed split-price priority rules would operate in conjunction with BOX's book sweep size mechanism, and its potential impact to the net execution price of the contra-side of a split-price QOO Order. In addition, Amendment No. 1 proposes additional rule text to describe how the system will determine split-price priority in situations where the allocation between two increments results in a fractional number of contracts.

The Commission believes that Amendment No. 1 provides additional specificity regarding the operation of BOX's new priority principles for split-priced transactions in open-outcry on the Trading Floor. The Commission notes that the proposed new rule text and additional description and analysis set forth in Amendment 1 do not raise any novel regulatory issues and are designed to add clarity to the proposal.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,⁴¹ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

⁴¹ 15 U.S.C. 78s(b)(2).

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁴² that the proposed rule change (SR-BOX-2017-36), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴³

Eduardo A. Aleman
Assistant Secretary

⁴² 15 U.S.C. 78s(b)(2).

⁴³ 17 CFR 200.30-3(a)(12).

